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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,421	08/05/2003	Michael G. Fisher	0003-033PI	7908
40972	7590	12/14/2005	EXAMINER	
HENNEMAN & SAUNDERS 714 WEST MICHIGAN AVENUE THREE RIVERS, MI 49093			HOPKINS, ROBERT A	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/634,421	FISHER ET AL.	
	Examiner Robert A. Hopkins	Art Unit 1724	

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 December 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2 and 4-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1,2,4-22 and 32-37 is/are allowed.
- 6) Claim(s) 23 and 27-31 is/are rejected.
- 7) Claim(s) 24-26 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12-5-05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____ .                                  |

Application Number: 10/634,421  
Art Unit: 1724

## **DETAILED ACTION**

Note: the current office action supercedes the previous final rejection.

Therefore, because of the citation of a new reference, the final rejection dated 9-29-05 is hereby vacated.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23 and 27-29 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Johnson et al(3460327).

Johnson et al teaches a method for moving a wine product comprising applying a vacuum(from blower 23 in figure 5) to a separator(22) to draw the wine product into the separator, removing the wine product from the separator into a depository(lower part of standard centrifugal separator), and blowing the wine product from the depository(pump 25). Johnson et al further teaches the wine product is a crushed grape product. Johnson et al further teaches wherein the wine product includes a must. Johnson et al further teaches wherein the wine product includes a pomace.

Claim 30 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Johnson et al(3460327).

Johnson et al teaches a method for moving a wet product comprising drawing

Application Number: 10/634,421  
Art Unit: 1724

the wet product into a chamber via vacuum(23) sufficient to move the wet product, drawing gases from the chamber(conduit 24) via vacuum to separate the gases from the wet product, and pushing the wet product from the chamber(via pump 25) via compressed gases sufficient to move the wet product.

Claim 31 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Johnson et al(3460327).

Johnson et al teaches a pump for moving a wet product comprising means(23) for drawing the wet product and gas mixture into a chamber, means(22) for separating the wet product from the gas, and means(25) for removing the wet product from the chamber.

Claim 30 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Evenson(4659293).

Evenson teaches a method for moving a wet product comprising drawing the wet product into a chamber via vacuum(23) sufficient to move the wet product, drawing gases from the chamber(conduit 27) via vacuum to separate the gases from the wet product, and pushing the wet product from the chamber(via pump 11) via compressed gases sufficient to move the wet product.

Claim 31 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Evenson(4659293).

Evenson teaches a pump for moving a wet product comprising means(23) for drawing the wet product and gas mixture into a chamber, means(19) for separating the

Application Number: 10/634,421  
Art Unit: 1724

wet product from the gas, and means(11) for removing the wet product from the chamber.

***Allowable Subject Matter***

Claims 24,25,26 are objected to as being dependant upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 24 recites "wherein: the vacuum is created by an air pump; and air exiting the air pump is used to blow the wine product from the depository". Johnson et al teaches air exiting the air pump returning to a hose 27. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide air exiting the air pump is used to blow the wine product from the depository because Johnson et al does not suggest such a modification. Claim 25 depends on claim 24 and hence would also be allowable upon incorporation of claim 24 into claim 23.

Claim 26 recites "wherein : the wine product falls from the depository into a mixing valve; the wine product is mixed with compressed air in the mixing valve; and the wine product is forced out of the mixing valve by the force of the compressed air". Johnson et al teaches a separator apparatus, but does not teach a pressure valve apparatus for allowing the wet product to be removed from the separating apparatus. Johnson et al teaches a wine product which moves directly from the separator to an outlet. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a mixing valve apparatus for allowing the wine product to be

Application Number: 10/634,421  
Art Unit: 1724

removed from the separating apparatus because provision of a mixing valve apparatus would teach directly against the teachings of Johnson et al. Also, it would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a mixing valve apparatus in combination with moving a dry product, such as with pneumatic conveying apparatus, because the teachings of a mixing valve for a dry product do not translate to teaching a mixing valve for a wet product.

Claims 1,2, 4-11,12-22, and 32-37 are allowed.

Claim 1 recites “a pressure valve apparatus for allowing the wet product to be removed from the separating apparatus”. Both Johnson et al and Evenson teach a separator apparatus, but do not teach a pressure valve apparatus for allowing the wet product to be removed from the separating apparatus. Both Evenson and Johnson et al teach a wet product which moves directly from the separator to an outlet. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a pressure valve apparatus for allowing the wet product to be removed from the separating apparatus because provision of a pressure valve apparatus would teach directly against the teachings of Evenson and Johnson et al. Also, it would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a pressure valve apparatus in combination with moving a dry product, such as with pneumatic conveying apparatus, because the teachings of a pressure valve for a dry product do not translate to teaching a pressure valve for a wet product. Claims 2, 4-

Application Number: 10/634,421  
Art Unit: 1724

11, and 36 depend on claim 1 and hence are also allowed.

Claim 12 recites “a valve apparatus for allowing the wet wine product to fall out of the separator into a depository”.

Both Johnson et al and Evenson teach a separator apparatus, but do not teach a pressure valve apparatus for allowing the wet product to be removed from the separating apparatus. Both Evenson and Johnson et al teach a wet product which moves directly from the separator to an outlet. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a pressure valve apparatus for allowing the wet product to be removed from the separating apparatus because provision of a pressure valve apparatus would teach directly against the teachings of Evenson and Johnson et al. Also, it would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a pressure valve apparatus in combination with moving a dry product, such as with pneumatic conveying apparatus, because the teachings of a pressure valve for a dry product do not translate to teaching a pressure valve for a wet product. Claims 13-22, and 37 depend on claim 12 and hence are also allowed.

Claim 32 recites “a mixing valve coupled to said chamber, said outlet port, and said pressurized gas source, whereby said wet product can be pushed out said outlet port by said pressurized gas”. Both Evenson and Johnson et al teach a wet product which moves directly from the separator to an outlet. It would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a mixing valve

Application Number: 10/634,421  
Art Unit: 1724

apparatus for allowing the wet product to be removed from the separating apparatus because provision of a mixing valve apparatus would teach directly against the teachings of Evenson and Johnson et al. Also, it would not have been obvious to someone of ordinary skill in the art at the time of the invention to provide a mixing valve apparatus in combination with moving a dry product, such as with pneumatic conveying apparatus, because the teachings of a mixing valve for a dry product do not translate to teaching a mixing valve for a wet product. Claims 33-35 depend on claim 32 and hence are also allowed.

*Response to Arguments*

Applicant's arguments filed 12-5-05 have been fully considered but are moot in view of the new rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Hopkins whose telephone number is 571-272-1159. The examiner can normally be reached on Monday-Friday, 7am-4pm, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166. The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

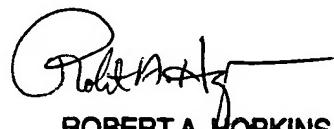
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval(PAIR) system. Status information for published applications may be obtained from either private PAIR or public PAIR.

Application Number: 10/634,421  
Art Unit: 1724

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RAH

December 9, 2005



ROBERT A. HOPKINS  
PRIMARY EXAMINER

